

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4070 of 2006()

AGAINST THE ORDER DATED 27.9.2006 IN CRL.M.P.NO.5178/2006 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS I, THODUPUZHA IN CRIME NO.389/2006 OF THODUPUZHA POLICE STATION.

REVN. PETITIONER: PETITIONER:

ALIKUNJU, S/O. HASSAN,
PURAMADAM HOUSE, VAZHITHALA KARA,
MANAKKAD VILLAGE, THODUPUZHA TALUK.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR

RESPONDENTS: RESPONDENTS:

1. MUHAMMED NAZEER, S/O. MUSTAFA,
ELAVUMTHADATHIL HOUSE VIII/653, NEDUMKANDAM P.O.,
IDUKKI DISTRICT.
2. STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE, THODUPUZHA
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

CRL.R.P.NO. 4070 OF 2006

Dated this the 28th day of November, 2006

O R D E R

The application filed by the revision petitioner under Section 457 of the Code of Criminal Procedure to release an autorickshaw was dismissed by the court below by the order impugned in this Revision. It was held by the trial court that the vehicle could be dealt with only under Section 67B of the Abkari Act and, therefore, an application under Section 457 of the Code of Criminal Procedure is not maintainable.

2. The learned Public Prosecutor, on instructions, submitted that no proceedings are being initiated for confiscation of the vehicle. Therefore, there could be no doubt that the application under Section 457 is maintainable. It is also relevant to note that this Court has held

in Abdurahiman v. The Excise Inspector and another
(2006 (1) KLD (Cri) 256), that an application under
Section 451 of the Code of Criminal Procedure is
maintainable in an abkari case.

Therefore, the Criminal Revision Petition is
allowed and the order impugned is set aside. The
trial court shall dispose of the application afresh
on the merits after hearing the parties, as
expeditiously as possible.

(K. T. SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

CRL.M.C.NO. OF

O R D E R

September, 2006